Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Technology Transitions	)	**GN Docket No. 13-5**
	)	
AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition	)	**GN Docket No. 12-353**
	)	
Connect America Fund	)	**WC Docket No. 10-90**
	)	
Structure and Practices of the Video Relay Service Program	)	**CG Docket No. 10-51**
	)	
Telecommunications Relay Services And Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities	)	**CG Docket No. 03-123**
	)	
Numbering Policies for Modern Communications	)	**WC Docket No. 13-97**
	)	
Rural Health Care Support Mechanism	)	**WC Docket No. 02-60**
	)	

COMMENTS OF THE EVANGELICAL LUTHERAN GOOD SAMARITAN SOCIETY

The Evangelical Lutheran Good Samaritan Society (the "Society") hereby files comments in response to the Federal Communications Commission's ("FCC" or "Commission") Further Notice of Proposed Rulemaking ("FNPRM") seeking comments on Technology Transition experiments.[1] In particular, the Society responds herein to Section E of the FNPRM regarding Rural Healthcare Broadband Experiments.[2]

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1 *Technology Transitions, et al.*, Order, Report and Order and Further Notice of Proposed Rulemaking, Report and Order, Order and Further Notice of Proposed Rulemaking, Proposal for Ongoing Data Initiative, FCC 14-5, GN Docket No. 13-5, *et al.*, (2014) ("FNPRM" or "Technology Transition Order and FNPRM").

2 *Id.* ¶¶ 224-230.

I. INTRODUCTION

The Society is the largest not-for-profit provider of senior services and housing in the United States, including many skilled nursing facilities ("SNFs"). The Society applauds the efforts of the FCC to help increase the usage of advanced technologies for the delivery of health care services, especially in remote, rural areas that are significant distances from acute care facilities.[3] It encourages the FCC to follow through with these efforts by continuing the SNF Pilot Program it initiated under the Connect America Fund.[4] The adoption of the SNF Pilot Program marked a significant step towards the FCC reaching its goal of increasing access to broadband for health care services in rural areas.[5] The FCC should not abandon the pilot program.

The Society has always sought to create environments where people are loved, valued and at peace. Our 21,000 staff members at more than 240 locations in 24 states work to make that vision a reality. The Society continues to lead the way in supporting the well-being of the aging population by being an acknowledged, innovative leader in providing products and services for older adults and their families.[6]

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3 *See Rural Health Care Support Mechanism*, Report and Order, FCC 12-150, 27 FCC Rcd. 16,678, 16,816-17 ¶¶ 346-347 (2012) ("Rural Health Care Order") (launching a pilot program to allow SNFs to be considered eligible for rural health care support in order to obtain funding for broadband connections (the "SNF Pilot Program")).

4 *Id.*

5 *Id.* ¶ 8. *See also* Federal Communications Commission, *Connecting America: The National Broadband Plan* at 216 (2010) (recommending that the definition of eligible health care providers explicitly include skilled nursing facilities), *available at* http://download.broadband.gov/plan/national-broadband-plan-chapter-10-health-care.pdf.

6 *See* Jodi Schwan, *Good Samaritan Society adapts model*, SIOUX FALLS BUSINESS JOURNAL (June 11, 2013), http://siouxfallsbusinessjournal.argusleader.com/article/20130612/BJNEWS04/306120017/Good-Samaritan-Society-adapts-model (last visited Mar. 28, 2013); *see also* Bill Anderson, *et al., CAST Case Study, Good Samaritan Society*, *available at* http://www.leadingage.org/uploadedFiles/Content/About/CAST/Pilot_Projects/Evangelical_Lutheran_Good_Samaritan_Society_Case_Study.pdf.

The Society serves more than 35,000 individuals annually and provides them with a wide continuum of services including:

- Home Health, Home Care, Hospice and Respite Care;
- Senior Living Apartments/Homes with Services;
- Assisted Living Memory and Specialty Care;
- Post-Acute Care Services;
- Skilled Nursing Care;
- Affordable Housing; and
- Inpatient and Outpatient Therapy.

The Society has been a leader in developing comprehensive care strategies for seniors by investing in innovative services and technologies designed to improve quality and lower costs. For example, the Society implemented the eLongTermCare telehealth technology, a technology designed to connect patients in rural skilled nursing facilities to hospitals and their doctors without having to physically move patients on a regular basis. The Society also developed the LivingWell@Home program, which offers a suite of technologies designed to help seniors live more independently and remain longer in the place they choose to call home.[7] Use of this patient remote-sensing technology suite began in the Society assisted living and home care communities in July 2012 and is designed to enhance care and service delivery through the use of sensor technology, telehealth, and central data-monitoring services.

In addition, the Society has undertaken a pilot project that deploys tablet-style computers to patients in some of its facilities and provides training that enables seniors to connect to family, caregivers, and doctors online. The intent of this program is to demonstrate how Internet usage by seniors can decrease depression and isolationism, and increase communication between senior patients and their communities. The Society also has implemented an electronic point-of-care

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[7] *See* LivingWell@Home, Resources, GOOD SAMARITAN SOCIETY (June 22, 2011), http://www.good-sam.com/index.php?/resources/seniorTopics/read/livingwellhome/9942 (last visited Mar. 28, 2013).

documentation system in many of its facilities and deployed electronic billing systems built to interact with payers and insurance providers. Moreover, the Society is continuously working to improve its ability to utilize remote sensing technologies in senior housing to convey clinical information using telehealth technology, as well as other innovative technologies.

Access to broadband connectivity at robust speeds and affordable prices is instrumental in the provision of our wide range of services. If the Society is to continue to develop innovative technologies designed to lower costs and improve care for seniors in long-term care facilities like SNFs, and in particular, those in rural or frontier areas, focus must be given to the SNFs ability to obtain robust and affordable broadband connectivity. Accordingly, the Society urges the FCC to proceed with the SNF Pilot Program as envisioned in the Rural Health Care Order.[8] Alternatively, the Society asks the FCC to implement an identical SNF program as one of its rural health care experiments. Continuation of the SNF Pilot Program will advance the FCC's goals of increasing access to broadband for health care providers, especially those serving rural areas, "fostering the development and deployment of broadband health care networks, and...maximizing the cost-effectiveness of the program."[9] In conjunction with the Technology Transition rural healthcare experiments, the SNF Pilot Program will also provide the FCC with useful data for taking even greater steps toward meeting our nation's goal of connecting seniors.

II. SKILLED NURSING FACILITIES NEED ROBUST AND AFFORDABLE BROADBAND CONNECTIVITY TO PROVIDE VITAL SERVICE TO SENIOR CITIZENS IN RURAL AMERICA

SNFs need access to advanced broadband connectivity in order to provide necessary health care related services to seniors. Indeed, the need for broadband technology, telehealth, and other

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[8] Rural Health Care Order ¶ 347 ("We conclude that a total of $50 million may be disbursed for the SNF Pilot over a funding period not to exceed three years . . .").

[9] Technology Transition Order and FNPRM ¶ 225.

advanced technologies is no different for a SNF than it is for an acute care facility (*e.g.*, a hospital or urgent care clinic). Yet, SNFs lack the federal financial assistance that acute care settings and other health care entities have enjoyed, in part, through the various programs under the federal universal service fund ("USF").

Moreover, the provision of quality health care for elderly populations in rural and frontier areas can present unique challenges, including scarcity of providers; harsh and prolonged weather events; and skilled healthcare worker shortages. Additional obstacles for SNFs to implement advanced technologies include:

- No financial incentives for early electronic medical records (EMR) implementation;
- high demand for broadband and telehealth services in rural areas;
- growing need for SNFs to communicate with other health care providers;
- data collection and analysis requirement for new health care initiatives such as a bundled payment, Accountable Care Organizations and other demonstration projects;
- growing demand for electronic interaction with insurance payers and the federal government;
- growing demand from consumers for electronic access to medical records;
- increasing network utilization and costs;
- regulatory pressures that are the same as acute care systems (*i.e.*, HIPPA and State requirements); and
- reduced availability of Internet service in rural communities.

In spite of these obstacles, and without access to USF funding, the Society has advanced EMR, telehealth, and other technologies into our care system that allow our facilities to connect with acute care providers because we believe it is critical and essential to work with providers of acute care services as we care for our elderly population. In many rural communities, a SNF is the only health care provider available for 100 miles or more. With telehealth, for example, the Society can extend ambulatory and emergency health care services into rural communities. The ability to provide seniors with immediate access to emergency health care services via a virtual broadband connection provides enormous benefits to seniors and society, including reducing the

wait time for ailing seniors to obtain medical attention, and reducing transportation time and expense associated with transporting the senior many miles to reach an emergency service center.

However, the cost of broadband connectivity is extraordinary in rural areas, and often the robust speeds necessary to advance the most state-of-the-health technology services are out of reach to SNFs due to cost and availability. The Society currently operates 168 skilled nursing facilities with private data connections to its national headquarters in South Dakota. Using county census tract numbers to determine rural eligibility, 122 (73%) of the Society's SNFs are rural and 46 (27%) are urban. In these facilities, the breakdown of the bandwidth currently installed at the SNFs is as follows:

- 98 sites have single T1 circuits (1.5 Mbps);
- 52 sites have two T1 circuits (3.0 Mbps);
- 16 sites have three T1 circuits (4.5 Mbps); and
- 2 sites have 5 Mbps Ethernet circuits.

The local access, which is the largest portion of the Society's monthly costs, is based on mileage and therefore tends to be more expensive for rural sites. The average access cost for rural locations is $496 for each T1 circuit we install, compared with $256 for urban sites. Therefore, our rural sites pay $240 more per month than our urban locations. Obtaining more robust broadband connectivity would result in an even greater price disparity between urban and rural prices.[10]

Upgrading circuits at SNFs is a constant concern, which puts even more financial pressure on the rural sites. Indeed, SNFs require affordable, sustainable access to broadband. Sustained broadband access is essential for the industry to continue to increase the use of technologies in remote training initiatives; ensure maintenance and dissemination of electronic medical files;

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[10] Of the total monthly costs, rural sites are paying 75% while urban sites pay the remaining 25%. Therefore, rural sites represent 73% of the SNFs, but only have 65% of the total bandwidth installed despite paying 75% of the total costs. The urban sites represent 27% of the SNFs and have 35% of the total bandwidth installed, while paying only 25% of the total costs.

further integrate the use of online pharmacies; and enable health care providers to obtain continuing education in rural areas.

The Society has a demonstrated history of advancing the use of technology in our facilities. Our experience and expertise would allow us to immediately put the resources distributed under the SNF Pilot Program to use and demonstrate that pilot programs we institute with these funds would be replicable to other organizations and geographic areas.

III. THE FCC SHOULD CONTINUE THE SNF PILOT PROGRAM IN ORDER TO MEET ITS IMPORTANT RURAL HEALTHCARE GOALS

The Society applauds efforts by the FCC to provide resources to help facilitate the increased use of advanced technologies in the provision of a wide range of long-term and health care services to seniors in rural areas. The Society supported the FCC's decision to allow non-profit SNFs to participate in the SNF Pilot Program whereby qualifying SNFs would be eligible to receive support for broadband connectivity.[11] The Society strongly encourages the FCC to continue forward with the SNF Pilot Program as contemplated under the Rural Health Care Order or as a standalone rural healthcare experiment in this Technology Transition docket. Under either approach, the FCC should make the $50 million funds it has already set aside for the program immediately available to eligible SNFs.

Despite the FCC's chosen mechanism for proceeding with the SNF Pilot Program, the program advances the FCC's rural health care goals to: (1) increase access to broadband for health care providers, particularly those serving rural areas; (2) foster the development and deployment

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[11] *See* Comments of Jeff Stingley at 1, CC Docket No. 02-60 and WC Docket No. 05-337 (filed Aug. 16, 2010); *see also* Comments of Jeff Stingley CC Docket No. 02-60 and WC Docket No. 05-337 (filed Nov. 1, 2013); Letter from Jeff Stingley, Director of Public Policy, The Evangelical Lutheran Good Samaritan Society, to the Federal Communications Commission, CC Docket No. 02-60 (filed Aug. 16, 2013); Letter from Jeff Stingley, Director of Public Policy, The Evangelical Lutheran Good Samaritan Society, to the Wireline Competition Bureau, Federal Communications Commission, CC Docket No. 02-60 (filed Aug. 16, 2013).

of broadband health care networks; and (3) maximize the cost-effectiveness of the program.[12] Indeed, SNFs are defined as a "health care provider" under other U.S. statues and regulations.[13] Even so, the FCC is not required to fund only traditional health care providers. Instead, the FCC's directive is "to enhance...access to advanced telecommunications and information services for all...health care providers."[14] Enabling SNFs to obtain robust and affordable broadband connectivity will further this goal by providing health care providers the ability to interact more efficiently with the aging population via advanced telecommunications and information services. The goals and objectives of this initiative remain critical for entities like the Society, so that they may continue to work with all health care providers to further develop and incorporate innovative technologies into the provision of care for seniors in rural areas and across the nation.

The SNF Pilot Program also meets the FCC's goal to "speed market-driven technological transitions and innovations."[15] The money for the SNF Pilot Program is already set aside, and non-profit SNFs such as the Society stand ready to implement with haste the funds to further advanced services and innovations. Indeed, but for the FCC's decision to defer implementation of the SNF Pilot Program pending its inquiry into rural health care experiments,[16] the $50 million set aside for the program would likely already be in the hands of those entities willing and able to speed the technology transition by bringing innovative rural health care technologies to fruition.

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12 Rural Health Care Order ¶ 8.

13 *See, e.g.,* Health Information Technology for Economic and Clinical Health Act 42 U.S.C.A. § 300jj(3) ("The term 'health care provider' includes a hospital, skilled nursing facility...").

14 Rural Health Care Order ¶ 347, n.798.

15 Technology Transition Order and FNPRM ¶ 1.

16 *Id.* ¶ 225, n.351; *Wireline Competition Bureau Announces Deferral of the Skilled Nursing Facility Pilot Program Pending Commission Consideration of Rural Healthcare Broadband Proposals*, Public Notice, DA 14-223, WC Docket Nos. 02-60, 10-90 (rel. Feb. 19, 2014).

In addition to the health care benefits that would arise from the SNF Pilot Program, numerous additional benefits that accrue to long-term care patients, acute care patients and seniors that are ancillary to obtaining robust and affordable broadband connectivity for health care related services. For instance, broadband access enhances the quality of life for senior citizens by enabling social interactions, limiting isolation concerns, and providing better access to municipal and health-care-related services and information. Broadband access also provides economic benefits by enabling seniors to shop, manage their finances, and obtain prescription medications more cheaply online. Moreover, SNFs may be the only source of health care services in many rural communities and can serve as anchor institutions providing "outreach, access, equipment and support services to facilitate greater use of broadband service by vulnerable populations."[17]

IV. THE FCC HAS THE LEGAL AUTHORITY TO CONTINUE IMPLEMENTATION OF THE SNF PILOT PROGRAM

The FCC has both set aside resources for this pilot program and determined that it has the statutory authority to implement this program for SNFs. As the FCC determined when it initiated the SNF Pilot Program, "this pilot program is grounded in the Commission's responsibility under section 254(h)(2)(A) to enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services for all health care providers."[18] The FCC found that, "even if funds from the program are paid to SNFs," it would enhance access by health care providers.[19]

In some instances, access by health care providers to advanced telecommunications and information services would be limited—and, therefore, the proliferation of rural health care

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[17] Technology Transition Order and FNPRM ¶ 226.

[18] Rural Health Care Order ¶ 347, n.798

[19] *Id.*

technologies impeded—if they are unable to communicate with SNFs due to lack of broadband connectivity. Accordingly, the FCC might affirmatively contravene its statutory mandate if it were to eliminate SNFs entirely from any eligibility to receive USF funds.

V. CONCLUSION

The FCC was on the right path when it adopted the SNF Pilot Program in the Rural Health Care Order. The FCC should continue the SNF Pilot Program as originally contemplated or proceed with the program as a rural healthcare broadband experiment in this docket. The FCC should not turn its back on SNFs. We respectfully urge the FCC to delay no further the SNF Pilot Program.

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